IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10434 of 1994

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

B S PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 10434 of 1994

MR DP VORA for Petitioner No. 1

(MR RAVI R TRIPATHI) for Petitioner No. 1

MR KUNJAL PANDYA A.G.P. for Respondent No. 1-2

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 09/11/2004

ORAL JUDGEMENT

1. This petition under Article 226 of the Constitution of India is filed by the petitioner with a

prayer to grant him higher grade and consequential benefits with effect from 1st November, 1992. The petitioner has further prayed to give consequential benefits and revision of payscale accordingly.

2. It is the case of the petitioner, that he joined the service of the respondents as Craft Instructor (Pitter) with effect from 4th February, 1963 and came to be promoted to the post of Supervisor in the year 1980. He further submitted that he was promoted to the post of Foreman Instructor on 1st November, 1983 and thereafter he was allowed to cross Efficiency Bar in the year 1991.

2.1. The petitioner further submitted that he has completed nine years of service on the same post on 1st November, 1992. The petitioner further submitted that respondent No. 2 herein issued order of granting benefit of higher grade to about 47 employees of the same department on 28th June, 1994. It is the case of the petitioner that though he has completed nine years of service on the post of Foreman Instructor, he was not given benefit of the said higher payscale. Being aggrieved, he approached the Gujarat Civil Services Tribunal at Gandhinagar by filing Appeal No. 181/1994, which was disposed of by order dated 28th April, 1994 whereby, it was held that since the Director had exercised delegated powers of the Government, in issuing order, granting benefits of higher grade, the Tribunal had no jurisdiction to entertain the Appeal and, therefore, the appeal was dismissed.

3. Further, a detailed representation dated 18th June, 1994, was submitted by the petitioner which is annexed at annexure-F to the petition, where he has submitted that he was eligible and entitled to get the benefits of higher payscale. Since, no reply was received by the petitioner on the said representation dated 18th June, 1994, the petitioner has filed this writ petition under Article 226 of the Constitution of India.

4. This Court by order dated 26th December, 1994 issued rule and it was clarified that pendency of this petition shall not be bar to the consideration of the petitioner's representation at annexure-F.

5. When this matter came up today for final hearing, no instructions have been received by the A.G.P. Mr. Kunjal Pandya appearing on behalf of the respondents.

6. On the facts and circumstances of the case, it would be just and proper to give directions to the

respondent authorities to decide the representation dated 18th June, 1994 at annexure-F to the petition, submitted to the respondent authority, within a period of three months from the date of receipt of writ of this Court, in accordance with the Rules, Regulations and Government Regulations governing the subject matter for the grant of higher payscale to the Government employees and to inform the petitioner accordingly. Orders accordingly.

7. It would be open for the petitioner to ventilate his grievance before the appropriate forum in case, if the representation is not decided or if any adverse order is passed.

8. With these directions, the petition is disposed of. Rule stands discharged with no order as to costs.

[ANANT S. DAVE, J.]

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